AN ABSTRACT OF Laws and Government:

Wherein as in a Mirrour may be ſeen the wiſdome & perfection of the Government of

Chriſts Kingdome.

Accomodable to any State or form of Government in the world, that is not Antichriſtian or Tyrannicall.

Collected and digeſted into the enſuing Method, by that Godly, Grave, and Judicious Divine, Mr. JOHN COTTON, of *Boſton* in *New-England*, in his Life-time, and preſented to the generall Court of the Maſſachuſets.

And now publiſhed after his death, by *William Aſpinwall.*

Iſa. 33. 22. *Jehovah is our Judge, Jehovah is our Law-giver, Jehovah is our King, he will ſave us.*

LONDON,
Printed by *M. S.* for *Livewel Chapman*, and are to be ſold at the Crown in *Popeſ-head Alley*, 1655.

To the Reader.

Gentle Reader,

I *Have here presented thee with an* Abstract *of Laws and Government, collected out of the Scriptures, & digested into this method, by that godly, grave, and judicious Divine, Mr.* John Cotton, *accomodated to the Colonie of the Massachusets in* New England, *and commended to the generall Court there. Which had they then had the heart to have received, it might have been better both with them there, and us here, then now it is. Concerning which Modell, I dare not pronounce, that it is without imperfection in every particular: Yet this I dare be bold to say, that it farre surpasseth all the* Municipall *Laws and Statutes of any of the Gentile Nations or Corporations under the cope of Heaven. Wherefore I thought it not unmeet to publish it to the view of all, for the common good. If any thing be wanting in the Copie, let it not be imputed unto the Author, who (had his labour found deserved acceptance) would undoubtedly have made a more through search, and perfect explanation of all the rules and lawes of judgement and justice, scattered here and there, throughout the books of* Moses, *and other Scriptures. Which had he perfected in his life time, might have redounded to the universall good of all the Nations that acknowledge the Kingly office of our Lord Jesus. For though the great ones of the world, who covet to grasp more power into their hands then Christ ever betrusted them withall, are ready to oppresse the poore Saints of Christ, which waite for the coming of his Kingdome, as if they were a company of giddy heads, and unstable, such as are either averse to all*

Government, or know not what Government they would have; yet the truth is, they know well what Government they would have; and (might they be encouraged and countenanced) are able to give a cleer demonſtration thereof from the Scriptures of truth, both what the Laws thereof be, and what manner of Officers of all ſorts, from the higheſt to the loweſt, which I doubt not but ſome of them will take opportunity to doe according to the holy will and word of Chriſt. So alſo if any thing be yet wanting in this which I here preſent thee withal, they will make a ſupplement thereof in due time.

In the mean while accept of this, which is worthy thy conſideration, and doth containe the very marrow and ſumme of all or moſt of thoſe Lawes, which Jeſus Chriſt, the eternall wiſdome of the Father, thought neceſſary for the adminiſtration of his Kingdome in righteouſneſſe and peace. And if thou poſſibly meeteſt with ſome rules, to which no Scriptures are annexed for proofe (as in the ſecond and third Chapters, and ſome Sections in the fourth, fifth, and ninth Chapters) conſider, that thoſe are not properly Laws, but prudentiall Rules, which be commended to that Colony, to be ratified with the common aſſent of the free-men in each Towne, or by their Repreſentatives in the generall Court, as publique Contracts. Which being once made and aſſented to for their owne convenience, do binde as Covenants do, untill by like publicke conſent they be abrogated and made voyd. For though the Author attribute the word [Law] unto ſome of them; yet, that it was not his meaning they ſhould be enacted as Lawes (if you take the word Law *in a proper ſenſe) appears by his concluſion, taken out of* Iſa. 33. 22. The Lord is our Judge, the Lord is our Law-giver, the Lord is our King, he will ſave us. Amen. *Hee knew full well that it would be an intrenchment upon the Royall power of Jeſus Chriſt, for them or any other of the ſonnes of* Adam, *to ordaine Lawes: And indeed Lawes of righteouſneſſe (ſuch as Chriſts lawes be) have theſe three incommunicable properties.*

1. *They are unvariable, and bind all perſons in all ages, and in all Nations.*

2. *They are undiſpenſable by any created powers.*

3. *They bind not only the outward man to obedience, but alſo the ſpirit and conſcience. None of which can be ſpoken of any humane Lawes or Conſtitutions whatſoever. Wherefore, when thou meeteſt*

with

with ſuch an expreſſion (calling ſuch prudentiall rules and Contracts by the name Law *) interpret it candidly. Becauſe ſuch agreements being once made by mutuall conſent, the Covenantees are obliged by the law of righteouſneſſe, to make good their agreements, untill they be reverſed by the like common conſent for a publique good, which in all prudentiall Contracts and Covenants may lawfully be done. For* cujus eſt inſtituere, ejus eſt deſtituere.

Poſſibly thou mayeſt meet with ſome particulars, which may not be fully cleared to thine apprehenſion, as in Chap. 20. Sect. 12. 18. 20. *But in that caſe, have recourſe to the word of God it ſelfe, whereunto the Author doth faithfully lead thee, and would have thee receive nothing from him, but what agrees therewith. And if any thing may poſſibly be thought to be omitted (as who can ſee all things* at once) let thine ingenuity make diligent ſearch, and ſupply what the Author in his life time had not opportunity to perfect. And be perſwaded this to doe; Weigh the Lawes here collected, I meane the Scriptures themſelves, which yeeld right rules of judgement in all cauſes both Civill and Criminall; and judge equally and impartially, whether there be any lawes in any State in the world, ſo juſt and equall as theſe be. Which were they duely attended unto; would undoubtedly preſerve inviolable, the liberty of the Subject, againſt all tyrannicall and uſurping powers.*

*Uno intuitu.

The perfection of theſe Lawes may appeare from hence; that though they be but few, yet are they ſuch as reach to all perſons, nations, and times, and are a perfect Standard to admeaſure all Judiciall actions and cauſes, whether Civill or Criminall, by Sea or by Land.

The impartiality of theſe Lawes appeares in this, that there is no reſpect of perſons in judgement, whether they be poor, or whether they be rich.

And thirdly, the conſideration of the Author of theſe Lawes might be a ſufficient argument to commend them unto us, to wit, Jeſus Chriſt the eternall wiſdome of the Father, he is our Law-giver: And he had no ſecret deſigne to reare up an externall glorious pompous government for himſelfe or his Vice-gerents and Subſtitutes, but to preſerve his people in a ſtate of holineſſe, righteouſneſſe, and peace. Neither did he attaine this dignity by the blood and treaſure of his Subjects; but he layd downe his owne life, and ſhed his deareſt blood

to

to purchaſe and procure this liberty for them. Oh! who would not be in love with ſuch Lawes, and ſuch a Soveraign?

Queſt: If it be ſaid; but what may be done to attain this?

Anſw. *I anſwer; It is not my purpoſe to perſwade this, or any other Nation (were they willing to heare) to enact or ratifie theſe by any power of their owne (in a ſolemn convention of their Repreſentatives) as Lawes: Neither do I believe it was the Authors intention ſo to do, when he drew up this Modell. For alas, what energie or vertue can ſuch an act of a companie of poore ſinfull creatures adde unto the moſt perfect and wholſome lawes of God? It is enough for us, and indeed it is all that can be done by any people upon earth,*

1. *To declare by their Repreſentatives, their voluntary ſubjection unto them, as unto the lawes of the Lord their God.*

2. *After ſuch profeſſed ſubjection, to fall unto the practice thereof, in the name and ſtrength of Chriſt their King and Law-giver. According as it is written,* Deut. 5. 27, 28, 29. All that Jehovah our God ſhall ſpeak unto thee, we will both hear and do. And Jehovah heard the voyce of your words, when ye ſpake unto mee: And Jehovah ſayd unto mee, I have heard the voyce of the words of this people, which they have ſpoken unto thee, they have done well [in] all that they have ſpoken. Who will give to them, that this may be their heart, to feare me, and to keep all my commandements all dayes, that it may be well with them, and with their ſons for ever.

This Abſtract may ſerve for this uſe principally (which I conceive was the maine ſcope of that good man, who was the Author of it) to ſhew the compleat ſufficiency of the word of God alone, to direct his people in judgement of all cauſes, both Civill and criminall, as wee are wonted to diſtinguiſh them. Which being by him done, and with all ſweetneſſe and amiableneſſe of ſpirit tendered (but not accepted) he forceaſed to preſſe it any further at that ſeaſon, knowing full well that the Lords people ſhall be a willing people in the day of his power. But the truth is, both they and we, and other the Gentile Nations, are loth to be perſwaded to dwell in the Tents of Shem, and to lay aſide our olde earthly formes of government, to ſubmit to the government of Chriſt. Nor ſhall wee Gentiles be willing (I feare) to take up his yoke which is eaſie, and burthen light, untill he hath broken us under the hard and heavy yokes of men, and there-

by

by weaned us from all our old formes and cuſtomes. The principall Remoraes *and* lets *whereof I conceive to be in Courtiers and Lawyers: For ſhould Chriſts Kingdome be erected indeed, it would croſſe the luſts and luſter of externall pomp and glory of the one, and the Mammon of unrighteouſneſſe of the other. So that there will be a neceſſity, that the little ſtone cut out of the mountaine without hands ſhould cruſh and breake theſe obſtacles, ere the way can be prepared for erecting his Kingdome, wherein dwells righteouſneſſe. And verily great will be the beneſit of this Kingdome of CHRIST, when it ſhall be ſubmitted unto by the Nations, for then* righteouſneſſe and peace will kiſſe each other, *Pſalm* 95. 10. And God will extend peace as a River, and the glory of the Gentiles as a flowing ſtreame, *Iſa* 66. 12. All burdens and tyrannicall exactions will be removed, *Iſa.* 60. 17. God will make their Officers peace, and their Exactors righteouſneſſe. *And then it will be no difficult matter to ſpare* many hundred thouſand pounds per annum, *in ſo great and populous Nations as theſe be, without neglecting the publique tranquility of the State, and the ſecurity of the ſame by a powerfull Militia both at Land and Sea, ſo long as the neceſſity of the Nations may require. But the ſeaſon is not yet full come for theſe things, and there yet remaines ſome of the ſufferings of Chriſt to be fulfilled in the Saints, and judgements upon his and their Enemies. Wherefore I ſhall ceaſe to ſay any more hereof at this time, and commend all theſe things to thy wiſe conſideration. And the Lord give thee underſtanding in all things, which is the hearty prayer of him that wiſheth all health and happineſs to thee, and peace upon all the Iſrael of God,*

Will: Aſpinwall.

AN ABSTRACT OF Lawes and Government, &c.

CHAP. I. § 1.

Of Magistrates.

All the Magistrates are to be chosen

1. BY the free Burgesses, *Deut.* 1. 13. [a] *Give for your selves wise men, and understanding, and* [b] *knowne amongst your Tribes, and I will place them for* [c] *Rulers over you.*

2. Out of the free Burgesses, *Deut.* 17. 15. *Thou shalt in* [d] *any wise set over thee the King, whom the Lord thy God shall choose for himselfe; from among thy brethren shalt thou set a King over thee.*

Jer. 30. 21. *And their Nobles shall be of themselves, and their Governour shall proceed from the mids of them, and I will cause him to draw neer, and he shall approach unto me.*

3. Out of the ableſt of men, and most approved amongst them, *Deut.* 1. 13. before mentioned.

[a] *Or* present.

[b] *Or* approved.

[c] *Heb.* your heads.

[d] *Heb.* in setting, thou shalt set over thee.

tioned. *Exod.* 18. 21. *Moreover thou shalt* e *provide out of all the people* f *able men, fearing God, men of truth, hating covetousnesse; and thou shalt place over them rulers of thousands, and rulers of hundreds, and rulers of tens.*

e *Heb.* take or receive from all the people.

f *Heb.* men of courage, strength, prowes, and wealth.

4. Out of the ranks of Noble-men, or Gentlemen amongst them, the best that God sendeth unto their Country, if they be qualified with gifts fit for Government, either eminently above others, or not inferiour unto others, *Eccles.* 10. 17. *Blessed be thou O land, when thy King is the sonne of Nobles, and thy Princes eate in due season, for strength, and not for drunkennesse.* Jer. 30. 21. *Their Nobles shall be of themselves,* &c.

Sect. 2. The Governour hath joynt power with the Assistants to govern the whole Country according to the Lawes hereafter mentioned. Of himselfe he hath power (and in his absence the Deputy Governour) to moderate all publique actions in a Common-wealth.

As
1. To send out Warrants for the calling of generall Courts.
2. To order and transact all actions in the Court, when he sitteth, & to gather suffrages and votes, and to pronounce sentence according to the greater part of them.

Sect. 3. The power of the Governour with the rest of the Councellors, is

g *Heb.* great matter, or case.
h *Heb.* cause to be brought or transmit.
i *Heb.* If the matter be hidden from thee concerning the judgment. Or if it be too high and admirable.

1. To consult and provide for the maintenance of the State and people, *Numb.* 11. from *vers.* 4. to 16.
2. To direct in all hard matters, wherein appeale is made to them from inferiour Courts. *Exod.* 18. 22. *And let them judge the people at all seasons: and it shall be, that every* g *hard matter they* h *shall bring unto thee, but every small matter they shall judge themselves: so make it lighter for thee, and they shall beare* [*the burden*] *with thee.* Deut. 17. 8, 9. *If there* i *arise a matter too hard for thee in judgement between blood and blood, between plea and plea, and between stroke*

stroke and stroke, matters of controversie within thy gates: then shalt thou arise, and get thee up unto the place which Jehovah thy God shall choose for himselfe. And thou shalt goe unto the Priests, the Levites, and unto the Judge that shall be in those dayes: and thou shalt enquire, and they shall shew thee the sentence of the judgement: And thou shalt do according to that sentence, &c.

3. To preserve Religion pure. *Exod.* 32. 27. *And hee said unto them, thus saith Jehovah the God of Israel, put every man his sword by* [k] *his side, and goe in and out from gate to gate, throughout the Camp, and slay every man his brother, and every man his companion, and every man his neighbor,* &c. *Exod.* 25. 40. *And* [l] *looke THOU make them according to their pattern which thou wast caused to see in the mount.* 2 Chron. 19. 11. *And behold, Amariah the chiefe Priest is over you in all the matters of the Lord, and Zebadiah the sonne of Ismael, the ruler of the house of Judah, for all the Kings matters, also the Levites shall be Officers before you.*

[k] *Heb.* his thigh.

[l] *Heb.* And see, & make.

4. To oversee the Forts & munition of the Country, and to take order for the protection of the country from forreign invasions, or intestine sedition, and if need shall require, with consent of the people to enterprize warr. 2 King. 20. 13. *And Hezekiah hearkned unto them, and shewed them the house of his precious things, and all the house of his armour,* &c. 2 Chr. 32. 2, &c. *And when Hezekiah saw that Senacherib was come; and* [m] *that he purposed to fight against Jerusalem. Then he tooke counsell with his Princes, and his mighty men, to stop the waters of the fountaines which* [were] *without the City, and they did help him. So there was gathered much people together, and they stopped all the fountaines, and the brooke that ever flowed through the midst of the Land, saying, Why should the Kings of Assyria come and finde much water? Also he strengthened himselfe, and built up all the wall that was broken, and raised it up to the Towers, and another wall without, and repaired Millo in the City of David, & made darts and shields in abundance. And he set Captaines of warr over the people, and gathered them together to him in the street of the gate of the City, and spake* [n] *comfortably to them.* &c.

[m] That his face was for warre.

[n] *Heb.* To their heart.

Exod. 17. 9. *And Moses said to Joshuah, choose us out men, and goe out, fight with Amalek, to morrow I will stand on the top of the hill with the rod of God in mine hand.* Prov. 24. 6. *For by wise counsell thou shalt make thy warre, and in multitude of Councellors there is safety.*

Sect. 4. And because these great affaires of the State cannot well and sufficiently be attended, nor safely and wisely administred, if they be often changed; therefore the Councellors are to be chosen for life, unlesse they give just cause of removall. Which if they doe, then they are to be removed by the generall Court. 1 *King.* 12. 6. *And King Reboboam consulted with the old men that stood before Solomon his Father, while he yet lived.* Prov. 28. 2. *For the transgression of the land, many are the Princes thereof, but by a wise knowing man it shall also be prolonged.*

Sect. 5. The power of the Governour sitting with the Councellors and Assistants, is to heare and determine all causes, whether Civill or Criminall, which are brought before them throughout the whole Common-wealth: Yet reserving liberty of Appeales from them to the generall Courts. *Exod.* 18. 22. *And let them judge the people at all seasons: and it shall be that every great matter they shall* ° *bring unto thee, but every small matter they themselves shall judge; so shall it be easier for thee, and they shall beare the* [*burden*] *with thee.* Deut. 1. 16, 17. *And I charged your Judges at that time, saying, Heare between your brethren, and judge righteously between every man and his brother, and his stranger.* 'Ye shall not P respect persons in judgment, you 'shall heare the small as well as the great, you shall not be a-'fraid of the face of man, for the judgment is Gods: and the 'cause that is too hard for you, cause it to be brought to mee, 'and I will heare it.

° *Or* transfer.

P *Heb.* Acknowledg faces.

Sect. 6. Every Towne is to have Judges within themselves, who shall be once in a moneth (or in 3. moneths at furthest) to hear and determine both Civill causes and pleas of lesse value, and crimes also which are not capitall, yet reserving liberty of appeale to the Court of Governour and Assistants. Deut. 16. 18. *Judges and Officers shalt thou make thee in all thy gates, which Jehovah thy God giveth thee throughout thy tribes, and*

they

they ſhall judge the people with judgment of righteouſneſſe. Exod. 18. 21, 22. *Moreover thou ſhalt* q *provide out of all the people* r *able men, fearing God, men of truth, hating covetouſneſſe; and thou ſhalt place over them rulers of thouſands, and rulers of hundreds, rulers of fifties, and rulers of tens. And let them judge the people at all ſeaſons: & it ſhall be, that every great matter they ſhall bring unto thee, but every ſmall matter they themſelves ſhall judge, &c. Jer. 36. 10, 11, 12. Then read Baruch in the booke the words of Jeremiah in the houſe of Jehovah: in the chamber of Gemariah the ſonne of Shaphan, the Scribe, in the higher Court, at the entry of the new gate of the houſe of Jehovah, in the eares of all the people.*

And Michaiah the ſonne of Gemariah, the ſonne of Shaphan heard out of the booke all the words of Jehovah. And he went downe into the Kings houſe, into the Scribes Chamber, and lo there, all the Princes were ſitting; Elishamah the Scribe, and Delaiah the ſonne of Shemaiah, and Elnathan the ſonne of Achbor, and Gemariah the ſonne of Shaphan, and Zedekiah the ſon of Hananiah, and all the Princes.

q *Or* take, or receive.

r *Heb.* men of courage, ſtrength, prowes, and wealth.

Sect. 7. For the better expedition and execution of Juſtice, and of all affairs incident to every Court, every Court ſhall have certaine Officers: As a Secretary to enroll all the acts of the Court, 1 *King.* 4. 3. *Eliboreph and Ahiah the ſonnes of Shiſha, Scribes, Jehoſhaphat the ſonne of Ahilud, Recorder.* So alſo 2 *Sam.* 20. 24. And beſides, Miniſters of Juſtice, to attach, and fetch, and ſet perſons before the Magiſtrates, and alſo to execute f the ſentence of the Court upon the offenders. *John* 7. 32, 45. *And the Phariſees and chiefe Prieſts ſent Officers to take him. Then came the Officers to the chiefe Prieſts and Phariſees, and they ſayd unto them, why have ye not brought him?* Acts 5. 26, 27. *Then went the Captaine with the Officers, and brought them without violence (for they feared the people, leſt they ſhould have been ſtoned.) And when they had brought them, they ſet them before the Councell, and the high Prieſt asked them, &c.* And for the ſame end, it ſhall be lawfull for the Governour, or any two of the Councellors, or Aſſiſtants, or Judges, to give Warrants to an Officer to fetch any Delinquent before them, and to examine the cauſe: And if he be found culpable of crime, to take order by Sureties, or ſafe cuſtodie, for his appearance

f *Deut.* 25. 2. He ſhall cauſe him to be beaten, *Math.* 18. 34. & 5. 25, 26.

at

at Court. Levit. 24. 12. *And they put him in ward, that the mind of the Lord might be shewed them.* So *Numb.* 15. 34. *And they put him in ward,* &c. And further, for the same end, and to prevent the offenders lying long in prison; It shall be lawful for the Governour, with one of the Councell, or any two of the Assistants, or Judges, to see execution done upon any offender, for any crime that is not capitall, according to the lawes established. Yet still reserving liberty of appeale from them to the Court, and from an Inferiour Court to a higher Court.

CHAP. II.

Of free Burgesses, and free Inhabitants.

Sect. 1. ALL the free Burgesses (excepting such as were admitted free-men, before the establishment of Churches in this Country) shall be received and admitted out of the members of some or other of the Churches already established in this Country, and such members as are admitted by their own Church unto the Lords table.

Sect. 2. These free Burgesses shall give power to choose in their own Towns fit and able men, out of themselves, to be ordinary Judges of inferiour causes in their own Towne. And against the approaches of the Generall Court, to choose two or three for Deputies or Commitees, to joyne with the Governour and Assistants of the whole Country, to make up and constitute a generall Court.

Sect. 3. The generall Court shall have power, by the warrant of the Governour, or of the deputy Governour, or of any three of the Councellours or Assistants, or by the warrant of any twelve of the deputies of the Country, to assemble once every quarter, or halfe year, or oftner, as the affaires of the Country require, and to sit together till their affaires be dispatched. And secondly, to call the Governour and all the rest of the publick Magistrates and Officers unto place, and to call them to account for the breach of any Lawes establi-

shed

shed, or other misdemenor, and to censure therein as the quality of the fact may require. And thirdly, to make and repeal Lawes. And fourthly, to dispose all the Lands in the Country, and to assigne them to severall towns or persons, as shall be thought fit. And fifthly, to impose a levy of monies for the publick service of the Common-wealth, as shall be thought requisite for the protection and provision of the whole. And sixthly, to hear and determine all causes whether civill or criminall, wherein appeal shall be made unto them, or which they shall see cause to assume into their own cognisance and judicature. And seventhly, to assist the Governour and Councellours in the maintenance of the purity and unity of Religion, and accordingly to set forward and uphold all such good courses, as shall be thought fit for that end, by the advice of the Elders with consent of the Churches, and to represse the contrary.

Sect. 4. In this generall Court, nothing shall be concluded but with common consent of the greater part, of the Governour and Assistants, together with the greater part of the deputies of the Towns. Unlesse it be in the election of Officers (where the liberey of the people is to be preserved) or in judging matters of offence against the Law, wherein both parties are to stand to the direction of the Law.

Sect. 5. All the householders in every Town shall be accounted as the free inhabitants of the Country, and shall accordingly enjoy freedom of commons and inheritance of such lands as the generall Court, or the severall Towns wherein they dwell, shall allot unto them; after they have taken an oath, or given other security, to be true and faithfull unto the State, and subject to such good and wholsome Lawes as are established in the Country by the generall Court.

CHAP.

CHAP. III.

Of the protection and proviſion of the Country.

Sect. 1. A Law to be made (if it be not made already) for the training of all men in the Country (fit to bear armes) unto the exercise of Military diſcipline. And withall another Law, for the maintenance of Military Officers and Forts.

Sect. 2. Becauſe fiſh is the chief ſtaple commodity of this Country, therefore all due incouragements to be given to ſuch hands as ſhall ſet forward the trade of fiſhing. And for that end, a Law to be made, that whoſoever ſhall apply themſelves to ſet forward the trade of fiſhing (as fiſher-men, Marriners or Ship-wrights) ſhall be allowed man for man, ſome or other of the labourers of the Country, to plant and reape for them, in the ſeaſons of the year, at the publick charge of the Common-wealth, for the ſpace of theſe ſeven years next enſuing: And ſuch labourerrs to be appointed and payed by the Treaſurer of the Common-wealth.

Sect. 3. Becauſe no Common-wealth can maintaine either their Authority at home, or their honour and power abroad, without ſufficient treaſure: A Law therefore to be made for the erecting and furniſhing of the Treaſury of the Common-wealth, which is to be ſupplyed and furniſhed,

1. *By the yearely payment.*
   1. Of 1 d. or ½ an acre of land occupied throughout the country. Lands occupied in common by a towne, to be paid out of the treaſury or ſtock of the ſame towne.
   2. Of 1 d for every beaſt, horſe, or cowe.
   3. Of ſome proportionable rate upon Merchants goods.
2. By the payment of a barrel of gun-powder or ſuch munition, out of every ſhip that bringeth in forreign commodities.
3. By fines or mulcts put upon Treſpaſſors.

Sect.

Sect. 4. A Treaſurer to be choſen by the free Bugeſſes, out of the Aſſiſtants, who ſhall receive and keep the Treaſury, and make diſburſments out of it, according to the direction of the generall Court, or of the Governor and Councel, whereof they are to give an account at the general Court. It ſhall alſo pertaine to the Office of the Treaſurer, diligently to ſurvey and overſee, all the munitions of the country, canons, culverings, muſquets, powder, match, bullets, &c. and to give account thereof to the Governour and Councell.

Sect. 5. A Treaſury alſo, or Magazine, or ſtorehouſe to be erected and furniſhed in every Town, diſtinct from the Treaſury of the Church, that proviſions of corne and of other neceſſaries may be laid up at the beſt hand, for the proviſion of ſuch poor, as are not members of the Church, as it is written *Deut.* 14. 28, 29. *Thou ſhalt lay it up within thy gates. And the Levite (becauſe he hath no part nor inheritance with thee) and the ſtranger, and the fatherleſſe, and the widdow which are within thy gates, ſhall come and ſhall eat, and be ſatisfied, that Jehovah thy God may bleſſe thee, in all the worke of thy hand, which thou doeſt.*: And out of it ſuch Officers may be maintained (as Captains or the like) who doe any publick ſervice for the Town. But chiefly this treaſury will be requiſite for the preſerving of the lively-hood of each Town within it ſelfe: that in caſe the inheritance of the lands that belong to any Town, come to be alienated from the towne-men (which may unavoidably fal out) yet a ſupply may be made to the lively-hood of the Town, by a reaſonable rent charge upon ſuch alienations (laid by the common conſent of the land-owners, and towne-men) to be payd into the Treaſury of the Town.

This treaſury to be paid.
1. By the yearly payment of ſome ſmall rate upon acres of lands and beaſts.
2. By fines & amercements put upon treſpaſſers, condemned in the town Courts.
3. By a rent charge upon alienation of town-lands.

Sect. 6. A town treaſurer to be appointed, for the overſight and ordering of this treaſury, choſen out of the free Burgeſſes by the free Burgeſſes of the ſame town. Who is to

diſpoſe of things under his charge, and according to the direction of the Judges of the town, and to give an account to the townes Court, to the Judges and free Burgeſſes of the town, or to ſome ſo elected by them.

CHAP. IV.

Of right of Inheritances.

Sect. 1. FOr as much as the right of diſpoſall of the inheritance of all the lands in the country lyeth in the generall Court; whatſoever lands are given and aſſigned by the generall Court, to any town or perſon, ſhall belong and remaine by right of inheritance, to ſuch towns and their ſucceſſors, and to ſuch perſons and to their heires and aſſignes, as their propriety for ever.

Sect. 2. Whatſoever lands (belonging to any town) ſhall be given by the town, or by ſuch Officers thereto as they ſhall appoint, unto any perſon; the ſame ſhall belong and remain to ſuch perſon and his heires and aſſignes, as his proper right for ever.

Sect. 3. In dividing of lands to the ſeverall perſons in each town, regard is to be had partly to the number of perſons in a family (to the more the greater allotment to be aſſigned, to the fewer, leſſe) *Numb.* 26. 53, 54. *Unto theſe ſhall the land be divided for an inheritance, according to the number of names. To many thou ſhalt give the more inheritance, and to few, thou ſhalt give the leſſe inheritance: to every one ſhall his inheritance be given, according to thoſe that were numbred of him.* And partly to the number of beaſts, by which a man is fit to occupy the land aſſigned to him, and to ſubdue it, *Numb.* 35. 3. *And the Cities ſhall they have to dwell in; and the ſuburbs thereof ſhall be for their cattell, and for their goods, and for their beaſts.* So eminent reſpect in this caſe may be given to men of eminent qualities or deſcent, in aſſigning to them more large and honourable accommodations in regard of their greater diſburſments to publique changes. *Deut.* 3. 15. *And I gave Gilead*

Gilead unto Machir. Josh. 15. 13. *And unto Caleb the sonne of Jephunneh, he gave a part among the children of Judah, according to the* t *commandement of Jehovah to Joshua: the city of Arba the father of Anak,* u *which (city) is Hebron.* Josh. 19. 49,50. *When they had made an end of dividing the land for inheritance by their coasts, the children of Israel gave an inheritance to Joshua the sonne of Nun among them. According to* x *the word of the Lord, they gave him the City which he asked, even Timnath-Serah, in mount Ephraim: and he built the city, and dwelt therein.*

t *Heb.* mouth.

u *Heb.* this is Hebron.

x *Heb.* mouth.

Sect. 4. For as much as all civill affairs are to be administred and ordered, so as may best conduce to the upholding and setting forward of the worship of God in Church-fellowship: It is therefore to be ordered, that whersoever the Lands of any mans inheritance may fall, yet no man shall set his dwelling house above the distance of halfe a mile (or a mile at furthest) from the meeting house of the Congregation, where the Church doth usually assemble for the worship of God. *Acts* 1. 12. *Then returned they to Jerusalem from the mount called Olivet, which is from Jerusalem a Sabbath dayes journey.*

Sect. 5. Inheritances are to descend naturally to the next of his Kin, according to the law of nature, delivered by God, *Numb.* 27. 7, 8, 9, 10, 11. *The daughters of Zelophehad spake right:* y *Thou shalt surely give them a possession of inheritance among their Fathers brethren, and thou shalt cause the inheritance of their fathers to passe unto them. And thou shalt speake unto the children of Israel, saying; If a man dye, and have no sonne, then ye shall cause his inheritance to passe unto his daughter. And if he have no daughter; then ye shall give his inheritance unto his brethren. And if he have no brethren; then ye shall give his inheritance unto his fathers brethren. And if his father have no brethren; then ye shall give his inheritance* z *unto his Kinsman that is next to him of his family, and he shall possesse it: and it shall be unto the children of Israel for a statute of judgement, as Jehovah commanded Moses.*

y *Heb.* in giving thou shalt give them.

z *Heb.* to him that is left him of his kinne.

Sect. 6. If a man have more sonnes then one, then a double portion to be assigned and bequeath'd to the eldest sonne, according to the Law of God. *Deut.* 21. 17. *But he shall acknowledg the sonne of the hated for the first born, by giving him a*

double portion, of all that is found with him; for he is the beginning of his ſtrength, the right of the firſt born is his. Unleſſe his own demerit doth deprive him of the dignity of his birth-right. 1 *Chr.* 5. 1. *Now the ſonnes of Reuben the firſt-born of Iſrael, for he was the firſt-born: but for as much as hee defiled his fathers bedd, his birth-right was given to the ſons of Joſeph, the ſonne of Iſrael: and the geneologie is not to be reckoned after the birth-right.*

Sect. 7. The will of a Teſtator is to be approved or diſallowed by the Court of Governour and Aſſiſtants, or by the Court of Judges in each Towne. Yet not to be diſallowed, unleſſe it appeare either to be counterfeit, or unequall, either againſt the Law of God, or againſt the publique weale, or againſt the due right of the Legatees. *Heb.* 9. 17. *For a teſtament is of force after men are dead, otherwiſe it is of no ſtrength at all.* Gal. 3. 15. *Though it be but a mans teſtament, yet if it be confirmed, no man diſannulleth or addeth thereto.*

Sect. 8. As God in old time in the Common-wealth of *Iſrael*, forbade the alienation of lands from one Tribe to another. *Numb.* 36. 7. *So ſhall not the inheritance of the children of Iſrael remove from tribe to tribe:* So to prevent the like inconvenience in the alienation of lands from one Town to another, it were requiſite to be ordered.

1. That no free Burgeſſe or free inhabitant of any Town, ſhall ſell the lands allotted to him in the Town, but to ſome one or other of the free Burgeſſes or free inhabitants of the ſame Town. Unleſſe the free Burgeſſes of the Town give conſent to ſuch ſale, or refuſe to give a due price, anſwerable to what others offer without fraud.

2. That if ſuch lands be ſold to any other, the ſale ſhall be made with the reſervation of ſuch a rent-charge to be paid to the Town-ſtock, or Treaſury of the Town, as either the former occupiers of the land were wont to pay, towards all the publick charges thereof, whether in Church or Towne: or at leaſt, after the rate of 2d. the acre, or ſome ſuch like proportion.

3. That if any free Burgeſſe or free Inhabitant of any Town, or the Heire of any of their lands, ſhall remove their dwelling from one Town to another: none of them ſhall

carry

carry away the whole benefit of the lands, which they poſſeſſed in the Town whence they removed; but if they ſtill keep the right of inheritance of the land in their own hands (and not ſell it as before) then they ſhall reſerve a like proportion of rent-charge out of their land, to be paid to the publicke Treaſury of the Town, as hath been wont to be paid out of it, to the publick charges of the Town and Church: or at leaſt after the rate of 2d. an acre, as before.

4. That if the inheritance of a free Burgeſſe or free inhabitant of any Town fall to his daughters (as it will do, for want of heires males) that then, if ſuch daughters do not marry to ſome of the inhabitants of the ſame Town, where their inheritance lyeth, nor ſell their inheritance to ſome of the ſame Town as before; that then they reſerve a like proportion of rent-charge out of their lands, to be paid to the publick treaſury of the Town, as hath been wont to be payd out of them to the publick charges of the Town and Church; or at leaſt after the rate of 2 d. an acre as before. Provided alwayes, that nothing be paid to the maintenance of the Church, out of the treaſury of the Towne, but by the free conſent of the free Bugeſſes of the town.

CHAP. V.

Of Commerce.

Sect. 1. IT ſhall be lawfull for the Governour, with one or more of the Councel to appoint a reaſonable rate of prices of all ſuch commodities, as are (out of the Ships) to be bought and ſold in this Country.

Sect. 2. In trucking and trading with the *Indians*; no man ſhall give them, for any commodity, of their ſilver or gold, or any weapons of warre, neither gunnes, gun-powder, nor ſwords, nor any other munition, which might come to be uſed againſt our ſelves.

Sect. 3. To the intent that all oppreſſion in bying and ſelling

ling may be avoyded: It ſhall be lawfull for the Judges in every town, with the conſent of the free Burgeſſes, to appoint certain ſelect men, to ſet a reaſonable rate upon all commodities, and proportionably to limit the wages of work-men and labourers, and the rates agreed upon by them, and ratified by the Judges to binde all the inhabitants of the town. The like courſe to be taken by the Governour and Aſſiſtants, for the rating of prices throughout the country; and all to be confirmed (if need be) by the generall Court.

Sect. 4. Juſt weights and ballances to be kept between buyers and ſellers. And for default thereof, the profit ſo wickedly and corruptly gotten and gained, with as much more added thereunto, is to be forfeited to the publick treaſury of the Common-wealth; *Lev.* 19. 36. [a] *Juſt ballances, juſt* [b] *weights, a juſt ephah, and a juſt hin ſhall ye have.* Prov. 11. 1. *Ballances of deceit is abomination to Jehovah: but a perfect* [c] *ſtone is his delight.* Prov. 15. 11. *A* [d] *juſt weight and ballance are Jehovahs: all the ſtones of the bag are his worke.* Prov. 20. 10. *A ſtone and a ſtone, an epha and an epha, both of them are like abomination to Jehovah.*

[a] *Heb.* Ballances of righteouſneſſe, and ſtones of righteouſnes.
[b] *Or* weight.
[c] *Heb.* a weight and ballances of judgment.
[d] *Heb.* Divers weights & divers meaſures.

Sect. 5. If a man borrow ought of his neighbour upon a pledg, the lender ſhall not make choiſe of what pledg he will have, nor take ſuch a pledg as is of daily neceſſary uſe to the debtor; or if he doe take it, he ſhall reſtore it again the ſame day. * *Deut.* 24. 10, 11, 12, 13. *When thou doeſt lend thy* [e] *brother any thing, thou ſhalt not go into his houſe to fetch his pledg. Thou ſhalt ſtand abroad: and the man to whom thou doeſt lend, ſhall bring out the pledg abroad unto thee. And if the man be poore, thou ſhalt not* [f] *ſleep with his pledg. In* [g] *any caſe thou ſhalt deliver him the pledg again when the Sun goeth down, that he may* [h] *ſleep in his own rayment and bleſſe thee; and it ſhall be righteouſneſſe unto thee before Jehovah thy God.* Exod. 22. 26, 27. *If thou take thy neighbours rayment to pledg, thou ſhalt deliver it unto him again, by that the ſun goeth down. For it is his or her covering onely, it is his rayment for his ſkin; wherein ſhall he ſleep? and it ſhall come to paſſe, when he cryeth unto me, that I will hear, for I am gracious.*

[e] *Heb.* Friend or companion.
* *Deut.* 24. 6. No man ſhall take the nether or upper milſtone to pledg, for he taketh the ſoul to pledg.
[f] *Heb.* lye downe.
[g] *Heb.* in returning, thou ſhalt cauſe to return to him.
[h] *Heb.* lye downe.

Sect.

Sect. 6. No increaſe to be taken of a poor brother or neighbour for any thing lent unto him. Exod. 22. 25. *If thou lend mony to any of my people, that is poore by thee, then ſhalt not be to him as an uſurer: thou ſhalt not lay upon him uſury.* Lev. 25. 35, 36, 37. *And if thy brother be waxen poore, and his hand failleth with thee; then thou ſhalt ſtrengthen him, the ſtranger and the ſojourner, that he may live with thee. Take thou no uſury of him, or increaſe, but fear thy God: that thy brother may live with thee. Thou ſhalt not give him thy money upon uſury, nor give him thy victualls for increaſe.* Deut. 23. 19. *Thou ſhalt not lend upon uſury to thy brother, uſury of money, uſury of victualls; uſury of any thing that is lent upon uſury.*

Sect. 7. If borrowed goods be loſt or hurt in the owners abſence; the borrower is to make them good: But in the owners preſence, wherein he ſees his goods no otherwiſe uſed then with his conſent; the borrower ſhall not make them good. If they were hired, the hire is to be paid and no more. *If a man borrow ought of his neighbour, and it be hurt or dye, the owner thereof not being with it, he ſhall ſurely make it good. But if the owner thereof be with it, he ſhall not make it good: if it be a hired thing, it goes for the hire,* Exod. 22. 14 15.

CHAP. VI.

Of Treſpaſſes.

Sect. 1. IF a mans ſwine or other beaſts, or a fire kindled by him break out into another mans field, or corne; he ſhal make full reſtitution of the damage done by them, and of the loſſe of time which others have had, by carrying ſuch ſwine or beaſts to the owner, or to the fould: But if a man put his ſwine or beaſt into another mans field, reſtitution is to be made of the beſt of his own, though it were much better then that which was deſtroyed, or hurt. *Exod* 22. 5, 6. *If a man ſhall cauſe a field or vineyard to be eaten, and ſhall put in his beaſt, and ſhall feed in another mans field: of the beſt of his own vineyard ſhall he make reſtitution.* If fire break out and catch in thorns,

ſo

ſo that the corne ſick, or the ſtanding, or the field be conſumed: he that kindled the fire, ſhall [i] ſurely make reſtitution.

[i] *Heb.* in making reſtitution, ſhall make reſtitution.

Sect. 2. If a man kill another mans beaſt, or dig and open a pit, and leave it uncovered, and a beaſt fall into it; he that killed the beaſt, and the owner of that pit, ſhall make reſtitution. *Lev.* 24. 18. *He that* [k] *killeth a beaſt, ſhall make it good,* [l] *beaſt for beaſt.* Exod. 21. 33, 34. *And if a man ſhall open a pit, or if a man ſhall dig a pit and not cover it: and an oxe or an aſſe fall therein: The owner of the pit ſhall make it good, he ſhall cauſe money to return to the owners thereof, and the dead ſhall be his.*

[k] *Heb.* ſmiteth the life of a beaſt.
[l] *Heb.* life for life, or ſoule for ſoule.

Sect. 3. If one mans beaſt kill the beaſt of anothers, the owner of the beaſt ſhall make reſtitution. *Exod.* 21. 35, 36. *And if one mans oxe hurt* [m] *anothers, that he dye; then they ſhall ſell the live oxe, and divide the money of it, and the dead oxe alſo ſhall they divide. Or if it be known that the oxe hath uſed to puſh in time paſt, and his owner hath not kept him in, he ſhall ſurely pay oxe for oxe, and the dead ſhall be his owne.*

[m] *Heb.* the oxe of his neighbour.

Sect. 4. If a mans oxe or other beaſt, gore or bite, and kill a man or woman (whether child or riper age) the beaſt ſhall be killed, and no benefit of the dead beaſt reſerved to the owner. But if the oxe or beaſt were wont to puſh or bite in time paſt, and the owner hath been told of it, and hath not kept him in, then both the oxe or beaſt ſhall be forfeited and killed, and the owner alſo put to death, or elſe fined to pay, what the Judges and perſons damnified ſhall lay upon him. Exod. 21. 28, 29, 30, 31, 32. *If an oxe gore a man or woman, that they dye, then the oxe ſhall be* [n] *ſurely ſtoned, and his fleſh ſhall not be eaten, but the owner of the oxe* [o] *ſhall be quit. But if the oxe were wont to puſh in times paſt, and it hath been teſtified to his owner, and he hath not kept him in, but that he hath killed a man or a woman: the oxe ſhall be ſtoned, and his owner alſo ſhall be put to death. If there be layd on him* [p] *a ſumme of money, then he ſhall give for the ranſome of his life,* [q] *whatſoever is laid upon him. Whether he have gored a ſon, or gored a daughter, according to this judgement ſhall it be done unto him. If the oxe ſhall puſh a man-ſervant, or a maid-ſervant, he ſhall give unto the maſter thirty* [r] *ſheckles, and the oxe ſhalle be ſtoned.*

[n] *Heb.* in ſtoning ſhall be ſtoned.
[o] *Heb.* is innocent, or guiltleſſe.
[p] *Heb.* a price of redemption.
[q] According to all that is.
[r] Silver, thirty ſheckles.

Sect.

Sect. 5. If a man deliver goods to his neighbour to keep, and they be ſaid to be loſt, or ſtollen from him; the keeper of the goods ſhall be put to his oath touching his owne innocency; which if he take, and no evidence appeare to the contrary, he ſhall be quit. But if he be found falſe or unfaithfull, he ſhall pay double unto his neighbour. *Exod.* 22. 7, 8, 9. *If a man ſhall deliver unto his neighbour money, or* [r] *ſtuffe to keep, and it be ſtollen out of the mans houſe: if the thief be found, let him pay double: if the thiefe be not found, then the maſter of the houſe ſhall be brought* [r] *unto the judges: if hee have not put his hand unto his neighbours goods. For all manner of treſpaſſe for oxe, for aſſe, for ſheep, for rayment, for any loſt thing, which another ſaith that it is his, the cauſe of both parties ſhall come before the Judges: whom the Judges ſhall condemn, he ſhall pay double unto his neighbour.*

[r] *Heb.* Veſſels.

[r] *Or* unto God.

But if a man take hire for goods committed to him, and they be ſtollen, the keeper ſhall make reſtitution. *Exod.* 22. 12. *And if it be ſtollen from him, he ſhall make reſtitution unto the owner thereof.* But if the beaſt ſo kept for hire dye, or be hurt, or be driven away, no man ſeeing it; an oath ſhall be taken of the keeper, that it was without his default, and it ſhall be accepted. But if the Beaſt be torn in pieces, a peece brought for witneſſe excuſeth the keeper. Exod. 22. 10, 11. *If a man deliver unto his neighbour an aſſe, or an oxe, or a ſheep, or any beaſt to keep, and it dye, or be hurt or driven away, no man ſeeing it. The oath of Jehovah ſhall be betwixt them both, if he have not put his hand unto his neighbours goods: and the owner thereof ſhall accept it, and he ſhall not make reſtitution.*

CHAP. VII.

Of crimes. And firſt of ſuch as deſerve capital puniſhment, or cutting off from a mans people, whether by death or baniſhment.

Sect. 1. BLaſphemy (which is a curſing of God, or wicked denyall of God by Atheiſme, or the like) to be puniſhed with death. Lev. 24. 15, 16. *Whoſoever curſeth his God, ſhall beare his ſinne. And he that* [u] *blaſpheneth the name Jehovah,* [x] *ſhall be ſurely put to death, all the congregation ſhall ſtone him: as well the ſtranger as he that is born in the land, when he* [y] *blaſpheneth the name, ſhall be put to death.*

[u] *Heb.* boreth through, or curſeth.
[x] *Heb.* in dying ſhall dye.
[y] Boreth through, or curſeth.

§. 2. Idolatry to be puniſhed with death. *Deut.* 13. from 1. to 11. *If there ariſe among you a Prophet, or a dreamer of dreames, and giveth thee a ſigne, or a wonder.*

2 *And the ſigne or the wonder come to paſſe, whereof hee ſpake unto thee, ſaying: Let us goe after other Gods, which thou haſt not known, and let us ſerve them.*

3 *Thou ſhalt not hearken unto the words of that Prophet, or that dreamer of dreams: for Jehovah your God proveth you, to know whether you love Jehovah your God, with all your heart, and with all your ſoule.*

4 *Ye ſhall walke after Jehovah your God, and feare him: and keep his commandements, and obey his voyce, and you ſhall ſerve him, and cleave unto him.*

5 *And that Prophet, or that dreamer of dreames, even he ſhall be put to death, becauſe hee hath ſpoken rebellion againſt Jehovah your God, which brought you out of the land of Ægypt, and redeemed you out of the houſe* [z] *of bondage, to thruſt thee out of the way which Jehovah thy God commanded thee to walke in it: ſo ſhalt thou put evill away from the middeſt of thee.*

[z] *Heb.* Servants.

6. *If thy brother the ſon of thy mother, or thy ſon, or thy daughter, or the wife of thy boſome, or thy friend, which is as thine own ſoule, intice*

intice thee ſecretly, ſaying: Let us go and ſerve other gods, which thou haſt not known, thou, nor thy fathers.

7. *Of the gods of the people, which are round about you, nigh unto thee, or farre off from thee; from the end of the earth, to the end of the earth.*

8. *Thou ſhalt not conſent unto him, nor hearken unto him; neither ſhall thine eye pitty him, neither ſhalt thou* [a] *ſpare, neither ſhalt thou conceal him.*

[a] *Or* uſe clemency.

9. *But* [b] *thou ſhalt ſurely kill him, thine hand ſhall be firſt upon him, to put him to death; and afterwards the hand of all the people.*

[b] *Heb.* in killing, thou ſhalt kill him.

10. *And thou ſhalt ſtone him with ſtones, that he dye; becauſe he hath ſought to thruſt thee away from Jehovah thy God, which brought thee out out of the land of Ægypt, from the houſe of* [c] *bondage.*

[c] *Heb.* Servants.

11. *And all Iſrael, ſhall hear, and fear: and ſhall do no more any ſuch wickedneſſe, as this is,* [d] *among you.*

[d] *Heb.* in the mids of thee.

Sect. 3. Witchcraft (which is ſellowſhip by covenant with a familiar ſpirit) to be puniſhed with death. *Exod.* 22. 18. *Thou ſhalt not ſuffer a witch to live.*

Deut. 18. 10. *There ſhall not be found among you, one who maketh his ſon or his daughter to paſſe through the fire; that devineth devinations, an obſerver of times, or an inchanter, or a witch.*

11. *Or* [e] *a charmer, or a conſulter with familiar ſpirits, or a wizard, or a* [f] *necromaneer.*

[e] *Heb.* one that joynes himſelfe in fellowſhip, to wit, with the Devill.

12. *For all that do theſe things are an abomination to Jehovah: and becauſe of theſe abominations Jehovah thy God doth drive them out from before thee.*

[f] *Heb.* One that ſeeks to the dead.

Lev. 20. 27. *A man alſo or a woman, that hath a familiar ſpirit, or that is a* [g] *wizard, ſhall ſurely be put to death; they ſhall ſtone them with ſtones, their blood ſhall be upon them.*

[g] *Or* foretell:r of things to come.

Sect. 4. Conſulters with witches are not to be tollerated, but either to be cut of by death, or by baniſhment. *Lev.* 20. 6. *And the ſoule that* [h] *turneth after familiar ſpirits and after wizards, to go a whoring after them: I will even ſet my face againſt that very ſoule, and I will cut him off from among my people.*

[h] *Heb.* ſetteth his face.

Sect. 5. Hereſie (which is the maintenance of ſome wicked errour, overthſowing the foundation of our chriſtian Religi-

on, with obstinacy) if it be joyned with indeavour to seduce others thereunto; to be punished with death. Because such an heritick (no lesse then an Idolater) seeketh to thrust the souls of men from the Lord thy God. *Deut.* 13. 10. 13. *And thou shalt stone him with stones, that he dye; because he hath sought to thrust thee away from Jehovah thy God, which brought thee out of the land of Ægypt, from the house* [1] *of bondage.*

[1] *Heb.* Servants.

Sect. 6. To worship God in a molten or graven Image, to be punished with death. *Exod.* 32. 27, 28. *And he sayd unto them, thus saith Jehovah the God of Israel, put every man his sword by his side, and go in and out from gate to gate throughout the Campe, and slay every man his brother, and every man his companion, and every man his neighbour. And the children of Levy did, according to the word of Moses: and there fell of the people that day, about three thousand men.*

Sect. 7. Such members of the Church as do wilfully reject (to wit, after admonition and conviction) the Churches established, their admonition and censures, shall be cut off by banishment.

Sect. 8. Whosoever shall revile the Religion and worship of God, and the Government of the Church, as it is now established, to be cut of by banishment.

Sect. 9. Wilful perjury whether before the judgment seat, or in private conference, to be punished with banishment. Just it is, that such a mans name should be cut off from his people, who profaneth so grosly the name of God before his people.

These three last Sections have no Scripture annexed in my copy. But I suppose the Author groundeth his judgement for banishment, upon *Numb.* 15. 30, 31. *The soule that doth ought with a high hand, whether he be borne in the Land or a stranger, he reproacheth Jehovah: and that very soule shall be cut of from the midst of his people. Because he hath despised the words of Jehovah, and hath broken his commandment; in cutting off that very soul shall be cut off, his iniquity upon him.*

Sect. 10. Profanation of the Lords day, in a carelesse or scornfull neglect or contempt thereof, to be punished with death. *Numb.* 15 from 30. to 36. *But the soule that doth ought with*

with a high hand, whether he be born in the land or a ſtranger, he reproacheth Jehovah: and that very ſoule ſhall be cut off from [k] *among his people. Becauſe he hath deſpiſed the word of Jehovah, and hath broken his commandment: that very ſoule* [l] *ſhall be utterly cut off, his iniquity* [ſhall be] *upon him. And while the children of Iſrael were in the wilderneſſe; they found a man gathering ſticks, upon the Sabbath day. And they that found him gathering ſticks, cauſed him to be brought unto Moſes & unto Aaron, & unto all the Congregation. And they put him in ward, becauſe it was not declared what ſhould be done unto him. And Jehovah ſayd unto Moſes, the man ſhall* [m] *ſurely be put to death; all the Congregation ſhall ſtone him with ſtones, without the campe. And all the Congregation brought him without the camp, and ſtoned him with ſtones, that he dyed; as Jehovah commanded Moſes.*

[k] *Heb.* The midſt of.
[l] *Heb.* In cutting off. ſhall be cut off.
[m] *Heb.* In dying ſhall dye.

Sect. 11. To plot and practice the betraying of the Countrey, or any principall Fort in it, into the hand of any forreign State, Spaniſh, French, Dutch, or the like, contrary to the Allegiance we profeſſe and owe to our dread Soveraign Lord King *Charls*, his Heyrs and Succeſſors (whilſt he is pleaſed to protect us, as his loyall Subjects) ſhall be puniſhed with death. This hath no Scripture annexed in my Copie, but I ſuppoſe is grounded upon the reaſon of the ſame puniſhment, in the fixteenth Section, by the rule of proportion. For as the deſtroying of the life of a man is puniſhed with death, ſo the betraying of a State is the deſtruction thereof, and culpable of the like puniſhment.

Unreverend and diſhonourable carriage to Magiſtrates, to be puniſhed with baniſhment for a time, till they acknowledg their faule, and profeſſe reformation. *Numb.* 12. 11. 14. 15. *And Aaron ſaid to Moſes: Alas my Lord, lay not the ſin upon us, wherein wee have done fooliſhly, and wherein we have ſinned. And the Lord ſaid to Moſes, if her father* [n] *had ſpit in her face, ſhould ſhe not be aſhamed ſeven dayes? let her be ſhut out of the camp ſeven dayes, and after* [o] *let her be received in againe. And Miriam was ſhut out from the Camp ſeven dayes, and the people journeyed not till Miriam* [p] *was brought in againe.*

[n] *Heb.* In ſpitting had ſpit.
[o] *Heb.* let her be added, or gathered.
[p] *Heb.* added, or gathered.

Quere, whether this was a civill Cenſure of baniſhment, or Church-cenſure of excommunication: The like quere might

might be made of the cenſure upon the ſeventh, eighth, and ninth Sections.

Sect. 15. Curſing of the Magiſtrates in higheſt ranks amongſt us (to wit, of the Governour and Councell) to be puniſhed with death. Exo. 22. 28. *Thou ſhalt not curſe* [q] *the Gods: nor ſhalt thou curſe* [r] *the ruler of thy people.* 2 Sam. 19. 21. *Shall not Shemei be put to death for this, becauſe he curſed Jehovah's annointed?* 1 King. 2. 8, 9. 46. *And behold, thou haſt with thee Shimei the ſonne of Gera, the ſonne of Jemini of Bahurim: who curſed me with a bitter curſe, in the day when I went to Mahanaim: but he came down to meet me at Jordan, and I ſware to him by Jehovah, ſaying, I will not put thee to death by the ſword. But now do not thou hold him guiltleſſe, for thou art a wiſe man: and thou knoweſt what thou oughteſt to do to him, but bring thou downe his hoarie head to the grave with blood. And the King commanded Benajah the ſonne of Jehojadah, which went out, and fell upon him that he dyed,* &c.

[q] *Or* Judges.

[r] *Or* him that is exalted by the people.

§ 14. Rebellion, Sedition, inſurrection (by taking up arms againſt the preſent Government, eſtabliſhed in the Country) to be puniſhed with death. *Numb.* 16. 1, 2, 3. 31, 32, 33. *Now Korah the ſonne of Izhar, the ſonne of Kohath, the ſon of Levi: and Dathan and Abiram ſons of Eliab, and On the ſonne of Peleth, ſonnes of Reuben, tooke* [men.] *And they roſe up before Moſes, and* [s] *certain of the children of Iſrael, two hundred and fifty: Princes of the aſſembly, famous in the congregation, men* [t] *of renown. And they gathered themſelves together againſt Moſes & againſt Aaron, and ſayd to them,* [u] *ye take too much upon you: for all the aſſembly even all of them are holy, and Jehovah in the mids of them: Wherefore then lift up your ſelves above the congregation of Jehovah? And it came to paſſe* [x] *he had made an end of ſpeaking all theſe words: that the earth clave aſunder that was under them. And the earth opened her mouth, and ſwallowed them up, and their houſes: and every man which appertained to Korah, and all their goods. And they and all that appertained to them, went downe alive into the grave: and the earth cloſed upon them, and they periſhed from among the congregation.*

[s] *Heb.* Men.

[t] *Heb.* Name.

[u] *Heb.* It is too much for you.

[x] *Heb.* to wit, *Moſes.*

Sect.

Sect. 15. Rebellious children (whether they continue in ryot and drunkenneſſe, after due correction from their Parents, or whether they curſe, or ſmite their Parents) are to be put to death. *Deut.* 21, 18, 19, 20, 21. *If a man have a ſtubborn and rebellious ſon, which will not* y *obey the voyce of his father, and the voyce of his mother: and they chaſten him, and he will not hearken to them. Then ſhall his father and mother lay hold on him, and bring him unto the elders of his City, and to the gate of his place. And they ſhall ſay unto the elders of his City, this our ſonne is ſtubborn and rebellious, he will not hearken to our voyce: hee is a glutton and a drunkard. And all the men of his City ſhall ſtone him with ſtones, that he dye: ſo ſhalt thou put away evill from among you, and all Iſrael ſhall heare and feare.* Lev. 20. 9. *For every one who curſeth his father, or his mother* z *ſhall ſurely be put to death: he hath curſed his father or his mother, his blood* [*ſhall be*] *upon him.* Exo. 21. 17. 15. *And he that curſeth his father, or his mother,* a *ſhall ſurely be put to death. And he that ſmiteth his father, or his mother,* b *ſhall ſurely be put to death.*

y *Heb.* Heare.

z *Heb.* in dying ſhall dye.

a *Heb.* in dying ſhall dye.

b *Heb.* in dying ſhall dye.

Sect. 16. Murther (which is a wilfull man-ſlaughter, not in a mans neceſſary and juſt defence, nor caſually committed, but out of hatred or cruelty) to be puniſhed with death. *Exod.* 21. 12, 13, 14. *He that ſmiteth a man, ſo that he dye, ſhall* c *ſurely be put to death.*

c *Heb.* In dying ſhall dye.

But if a man lye not in wait, and God deliver him into his hand, then will I appoint thee a place, whether he ſhall fly. But if a man come preſumptuouſly upon his neighbour, to ſlay him with guile: thou ſhalt take him from mine altar, that he may dye. Numb. 35. from *v* 16. to 24. *And if he ſmite him with an inſtrument of Iron (ſo that he dye) he is a murderer: the murderer* d *ſhall ſurely be put to death. And if he ſmite* e *him with throwing a ſtone (wherewith he may dye) and he dye, he is a murderer: the murderer* f *ſhall ſurely be put to death. Or if he ſmight him with a hand weapon of wood, (wherewith he may dye) and he dye, he is a murderer: the murderer* g *ſhall ſurely be put to death: The revenger of blood, he ſhall ſlay the murderer; when he meeteth him, he ſhall ſlay him. And he if he thruſt him of hatred; or hurle at him, by laying of waite, that he dye. Or in emnity ſmite him with his hand, that he dye, he that ſmote him* h *ſhall ſurely be put to death, he is a murderer: the revenger of blood, ſhall ſlay the*

d *Heb.* In dying ſhall dye.

e *Heb.* with a ſtone in the hand.

f *Heb.* In dying ſhall dye.

g *Heb.* In dying ſhall dye.

h *Heb.* In dying ſhall dye.

the murderer, when he meeteth him. But if he thruſt him ſuddenly, without enmity; or have caſt upon him any thing, without laying in waite. Or with any ſtone wherewith a man may dye (not ſeing) and caſt it upon that he dye; not hating him, nor ſeeking his harme. Then the Congregation ſhall judge, between the ſlayer, and the revenger of blood: according to theſe judgements. And the Congregation ſhall deliver the ſlayer, out of the hand of the revenger of blood, &c. Gen. 9.6. He that ſheddeth mans blood, by man ſhall his blood be ſhed: for in the Image of God, he made man.

Sect. 17. Adultery (which is the defiling of the marriage bed) to be puniſhed with death. *Lev.* 20. 9. *And the man that committeth adultery with another mans wife, which commits adultery with his neighbours wife: the adulterer and the adultereſſe,* [i] *ſhall ſurely be put to death.* Deut. 22. 22. *If a man be found lying with a woman married to a husband, then they ſhall both of them dye, the man that lay with the woman, and the woman: ſo ſhalt thou put away evill from Iſrael.*

[i] *Heb.* In dying ſhall dye.

Defiling of a woman eſpouſed, is a kinde of adultery, and puniſhable by death of both parties; but if the woman be forced, then by the death of the man onely. *Deut.* 22. 23, 24, 25, 26, 27. *If a damſel be a virgin, betrothed to an husband: and a man finde her in the City, and lye with her. Then yee ſhall bring them out unto the gate of that City, and yee ſhall ſtone them with ſtones, that they dye: the damſell, becauſe ſhe cryed not in the City, and the man, becauſe he hath humbled his neighbours wife: ſo thou ſhalt put away evill from among you. But if a man finde a betrothed maid in the field, and the man* [k] *force her, and lye with her: then the man onely that lay with her, ſhall dye. But unto the damſell thou ſhalt do nothing, there is in the damſell no ſin worthy of death: becauſe, as when a man riſeth up againſt his neighbour* [l] *and ſlayeth him; ſo is this matter. For he found her in the field: the betrothed damſell cryed, and there was none to ſave her.*

[k] *Or* detaine her by force.

[l] *Heb.* And killeth him with his ſoule or life.

Sect. 18. Inceſt (which is the defiling of any that are neer of kin, within the degrees prohibited in *Leviticus*) to be puniſhed with death. *Lev.* 20. 11, 12. 14. 17. 19, 20, 21. *And the man that lyeth with his fathers wife, hath uncovered his fathers nakedneſſe: both of them* [m] *ſhall be ſurely put to death, their blood* [*ſhall be*] *upon them. And that man which lyeth with his daughter*

[m] *Heb.* In dying ſhall dye.

in

in law, both of them n *ſhall ſurely be put to death: they have wrought confuſion, their blood* [*ſhall be*] *upon them. And the man take a wife and her mother,* [*it is*] *wickedneſſe: they ſhall burne both him and them with fire, that there be no wickedneſſe among you. And if a man ſhall take his ſiſter, his fathers daughter, or his mothers daughter, and ſee her nakedneſſe, and ſhe ſee his nakedneſſe, it is* o *wicked thing, and they ſhall be cut off in the ſight* p *of their people; he hath uncovered his ſiſters nakedneſſe, he ſhall bear his iniquity. And thou ſhalt not uncover the nakedneſſe of thy mothers ſiſter, nor of thy fathers ſiſter: for he* q *uncovereth his neere kin, they ſhall bear their iniquity. And if a man lye with his uncles wife, he hath uncovered his uncles nakedneſſe: they ſhall bear their ſinne, they ſhall dye childleſſe. And if a man ſhall take his brothers wife, it is an unclean thing; he hath uncovered his brothers nakedneſſe, they ſhall be childleſſe.*

n *Heb.* In dying they ſhall dye.

o *Or* a reproach.

p Of the children of their people.

q *Heb.* maketh naked.

Sect. 19. Unnatural filthineſſe to be puniſhed with death; whether Sodomie (which is carnall fellowſhip of man with man, or woman with woman): or buggery, which is carnal fellowſhip of man or woman with beaſt or fowl. *Lev.* 20. 13. 15, 16. *If a man alſo lye with mankinde,* r *as he lyeth with a woman: both of them have committed abomination, they* s *ſhall ſurely be put to death, their blood* [*ſhall be*] *upon them. And if a man* t *lye with a beaſt,* † *he* u *ſhall ſurely be put to death; and ye ſhall ſlay the beaſt. And if a woman approach unto any beaſt,* x *and lye down thereunto; thou ſhalt kill the woman and the beaſt: they ſhall ſurely be put to death, their blood* [*ſhall be*] *upon them.*

r *Heb.* with the copulations of a woman.

s *Heb.* In dying they ſhall dye.

t *Heb.* In dying they ſhall dye.

† *Heb.* give his lying with a beaſt.

u *Heb.* to have beaſtly copulation therewith.

x *Heb.* In dying they ſhall dye.

Sect. 20. Pollution of a woman known to be in her flowers, to be puniſhed with death. *Lev.* 20. 18. *And if a man lye with a woman having her ſickneſſe, and uncover her nakedneſſe, he hath* y *diſcovered her fountaine, and ſhe hath diſcovered the fountaine of her blood: and both of them ſhall be cut off from among their people.*

y *Heb.* made naked.

Sect. 21. Whoredom with a maid in her fathers houſe, kept ſecret, till after her marriage with another; to be puniſhed with death. *Deut.* 22. 20, 21. *But if this thing be* z *true; the tokens of virginity are not found for the virgin. Then they ſhall ſhall bring out the damſell, to the doore of her fathers houſe, and the men of her City ſhall ſtone her with ſtones, that ſhee dye, becauſe ſhee*

z *Heb.* Truth.

hath wrought folly in Iſrael, to play the whore in her fathers houſe: ſo ſhalt thou put away evill from among you.

Sect. 22. Man-ſtealing, to be puniſhed with death. *Exod.* 21. 16. *And he that ſtealeth a man, and ſelleth him, or if he be found in his hand,* [a] *ſhall ſurely be put to death. Deut.* 24. 7. *If a man be found ſtealing* [b] *any of his brethren of the children of Iſrael, and make gaine of him, or ſell him: then that very thief ſhall dye, and thou ſhalt put evill away from among you.*

[a] *Heb.* in dying ſhall dye.
[b] *Heb.* A ſoul.

Sect. 23. Falſe witneſſe againſt life, to be puniſhned with death. *Deut.* 19. 16. 21. *If a* [c] *falſe witneſſe riſe up againſt a man;* [d] *to teſtifie againſt that which is wrong. And thine eye ſhall not* [e] *pitty: life for life, eye for eye, tooth for tooth, hand for hand, foote for foote.*

[c] *Heb.* A witneſſe of wrong.
[d] *Or* ſpare.
[e] *Heb.* ſoule for ſoule.

CHAP. VIII.

Of other crimes leſſe heynous, ſuch as are to be puniſhed with ſome corporall puniſhment or Fine.

Sect. 1. FOrcing of a maid or a rape, is not puniſhed by Gods law by death. But 1. with a fine or penalty to the father of the maid. 2. With marriage of the maid defiled; to wit, if ſhe and her father conſent. 3. With corporall puniſhment of ſtripes. [f] For this wrong is a reall ſlaunder: and worſe to make an whore, then to ſay one is a whore. *Deut.* 22 28, 29. *If a man finde a damſell a maid, which is not betrothed, and lay hold of her, and lye with her: and they be found. Then the man that lay with her ſhall give unto the damſels father, fifty* [*ſhekels*] *of ſilver: and ſhe ſhall be his wife, becauſe he hath humbled her, he may not put her away all his dayes. Deut.* 22. 17, 18. "And loe he hath given occaſion of ſpeech [a-"againſt her] ſaying, I found not [g] thy daughter a maid, yet "theſe are the tokens of my daughters virginity: and they "ſhall ſpread the cloath, before the Elders of the City. And the

[f] By proportion of the law, *Deut.* 22. 17, 18.

[g] *Heb.* the tokens of thy daughters virginity.

"the Elders of that City ſhall take that man : and ſhall cha-
"ſtiſe him.

Sect. 2. Fornication to be puniſhed. 1. With marriage of the maide, or giving her a ſufficient dowry. *Exod.* 22. 16. *And if a man intice a maid that is not betrothed, and lye with her : he* [h] *ſhall ſurely endow her to be his wife. If her father* [i] *utterly refuſe, to give her to him : he ſhall* [k] *pay money, according to the dowry of virgins.* 2. It is to be puniſhed with ſtripes (though fewer) from the equity of the former caſe.

[h] *Heb.* Endowing, he ſhall endow her.
[i] In refuſing doth refuſe.
[k] *Heb.* weigh.

Sect. 3. Raſh and profane ſwearing and curſing to be puniſhed. 1. With loſſe of honour or office if he be a Magiſtrate or Officer. Meet it is that their name ſhould be diſhonoured, who do diſhonour Gods name. 2. With loſſe of freedome. 3. With diſability to give teſtimonie. 4. With corporal punishment; either by ſtripes, or by branding them with an hot iron, or boring through the tongue, as he hath bored and pierced Gods name. *This ſeemes to be grounded upon the equity of the Law of blaſphemie, in the* 7. *Chapter and* 1. *Section, by way of proportion. Howeuer my copy hath no Scriptures annexed.*

Sect. 4. Drunkeneſſe (or transforming Gods Image into a beaſt) is to to be puniſhed with the punishment of beaſts. *Prov.* 26. 3. *A whip for the horſe, a bridle for the aſſe : and a rod for the back of fooles.*

§. 5. Maiming or wounding of a free-man (whether free Burgeſſe or free inhabitant) to be puniſhed with a fine, and with loſſe of member for member, or ſome valuable recompence, and to pay for his cure and for the loſſe of his time. *Exod.* 21. 18, 19. 22, 23, 24, 25. *And if men ſtrive together, and* [l] *one ſmite another, with a ſtone, or with his fiſt : and he dye not,* [m] *but keepeth his bed. If he riſe againe and walke abroad, upon his ſtaffe, then ſhall he that ſmote him be quit : onely he ſhall* [n] *pay for the loſſe of his time, and* [o] *ſhall cauſe him to be throughly healed. And if men ſtrive, and hurt a woman with childe, ſo that her fruit depart from her, and yet no* [p] *miſchiefe follow : he* [q] *ſhall be ſurely puniſhed, according as the womans husband will lay upon him, and he ſhall pay as the Judges [ſhall determine.] But if any* [r] *miſchiefe follow, then thou ſhalt give life for life, eye for eye, tooth for tooth :*

[l] *Heb.* a man ſmite his neighbour.
[m] *Heb.* fallet upon his bed
[n] *Heb.* Give for his reſt ceſſation.
[o] *Heb.* In he ling ſhall cauſe him be healed.
[p] *Or* death
[q] *Heb.* in p niſhing, he ſhall be pu niſhed.
[r] *Or* death

hand for hand, foote for foot. Burning for burning, wound for wound: ſtripe for ſtripe. Lev. 24. 19, 20. And if a man cauſe a blemiſh, in his neighbour: as he hath done, ſo ſhall be done to him. Breach for breach, eye for eye, tooth for tooth: as he hath cauſed a blemiſh in a man, ſo ſhall it be done to him againe.

But if it be the mayming or wounding of a ſervant, the ſervant to go forth free from ſuch a ſervice. *Exo. 21. 20, 21. 26, 27. And if a man ſmite his ſervant or his maid with a rod, and he lye under his hand: [q] he ſhall ſurely be puniſhed. Notwithſtanding if he continue a day or two dayes: he ſhall not be puniſhed [r], for he is his money. And if a man ſmite the eye of his ſervant, or the eye of his mayd, that it periſh: [u] he ſhall let him goe free for his eye ſake. And if he ſmite out his man-ſervants tooth, or his maid-ſervants tooth, he [x] ſhall let him go free for his tooths ſake.*

[q] *Heb.* in avenging they ſhall be avenged.
[r] *Or* avenged.
[u] *Heb.* ſhall diſmiſſe him, becauſe of his eye.
[x] *Heb.* ſhall d ſmiſſe him, becauſe of his tooth.

Sect. 6. If a man ſteale a beaſt, and it be found in his hand, he ſhall make reſtitution two for one. If it be killed and ſold, reſtitution is to be made, of five oxen for one, and of foure ſheep for one. *Exod. 22. 1. 4. If a man ſteale an oxe or a ſheepe, and kill it, or ſell it: he ſhall reſtore five oxen for an oxe, and foure ſheep for a ſheep. If the theft [y] be certainly found in his hand alive, whether oxe, or aſſe, or ſheep, he ſhall reſtore double.*

[y] *Heb.* in finding be found.

If the thiefe be not able to make reſtitution, then he is to be ſold by the Magiſtrate for a ſervant, till by his labour he may make due reſtitution. *Exod. 22. 3. If the ſunne be riſen upon him, there ſhall be blood ſhed for him: [z] he ſhould make full reſtitution, if he have nothing, then ſhall he be ſold for his theft.*

[z] *Heb.* in reſtoring hee ſhould reſtore.

Sect. 7. If a Thiefe be found breaking up a houſe by night, and be ſlaine, his ſmiter is guiltleſſe. *Exod. 22. 2. If a thiefe be found breaking up, and be ſmitten that he dye: No blood [ſhall be ſhed] for him.*

But in the day time he is to make full reſtitution, or if he be not able, then to be ſold, as before.

Sect. 8. Slanders are to be puniſhed. 1. By a publique acknowledgment, as the ſlander was publique. 2. By a mulct or fine of money, where the ſlander bringeth damage. 3. By ſtripes, if the ſlander be groſſe and odious, and againſt ſuch perſons whom a man ought to honour and cheriſh, whether they be his ſuperiors, or in ſome degree of equality with himſelfe,

himſelfe, as his wife. Deut. 22. 17, 18, 19. *And loe he hath given occaſion of ſpeech* [*againſt her*] *ſaying, I found not* [a] *thy daughter a maid, yet theſe are the tokens of my daughters virginity: and they ſhall ſpread the cloath before the elders of the City. And the elders of the City ſhall take that man: and ſhall chaſtiſe him. And they may amerce him in an hundred* [*ſheckels*] *of ſilver, and ſhall give to the father of the damſell, becauſe hee hath brought an evill name upon a virgin of Iſrael: and ſhe ſhall be his wife, he may not put her away all his dayes.*

[a] *Heb.* the tokens of thy daughters virginity.

CHAP. IX.

Of the tryall of Cauſes, whether civill or criminall, and the execution of ſentence.

SECT. 1.

IN the tryall of all cauſes, no judgment ſhall paſſe, but either upon confeſſion of the party, or upon the teſtimony of two witneſſes. *Deut.* 19. 4. "One witneſſe ſhall not riſe "up againſt a man, for any iniquity, or for any ſin, in any "ſin that he ſinneth: at the mouth of two witneſſes, or at "the mouth of three witneſſes, ſhall the matter be eſtabliſhed. *Deut.* 17. 6. "At the mouth of two witneſſes, or three wit-"neſſes, ſhall he that is worthy of death be put to death: he "ſhall not dye at the mouth of one witneſſe.

Sect. 2. Tryall by Jurors ſhall not be denyed, where either the Delinquent requireth it, in cauſes criminall; or the Plaintiff or Defendant in cauſes civill. Partly to preſerve the liberty of the people, and partly to prevent ſuſpition of partiality of any Magiſtrate in the Court.

Sect. 3. The Jurors are not to be choſen by any Magiſtrates, or Officers, but by the free Burgeſſes of each Towne. Eſpecially out of ſuch Towne, as can give beſt light to the cauſes depending in Court, and who are leaſt obnoxious to ſuſpition

ſuſpition of partiality: And the Jurors ſo choſen, to be nominated to the Court, and to attend the ſervice of the Court.

Sect. 4. The ſentence of Judgment, upon criminall cauſes and perſons, ſhall be executed in the preſence of the Magiſtrates, or ſome of them at the leaſt. *Deut.* 25. 2. "And it "ſhall be, if the wicked man be worthy to be beaten; that "the Judge ſhall cauſe him to lye downe, and to be bea-"ten before his face, according to his fault, by a cetain num-"ber.

Sect. 5. Stripes are not to be inflicted, but where the crime of the offender is accompanied with childiſh or brutiſh folly, or with rude filthineſſe, or with ſtubborn inſolency, or with beaſtly cruelty, or with idle vagrancy. But when ſtripes are due, not above forty are to be inflicted. *Deut.* 25. 3. "Forty ſtripes he may give him, and not exceed: leſt [if] "he ſhould exceed and beate him above theſe with [b] many "ſtripes, then thy brother ſhould ſeem vile unto thee.

[b] *Heb.* a great ſtriking.

Sect. 6. No free man (whether free Burgeſſe, or free inhabitant) to be impriſoned, but either upon conviction, or at leaſt probable ſuſpition of ſome crime formerly mentioned, and the cauſe of his impriſonment to be declared, and tryed at the next Court following at furtheſt. 2 *Sam.* 23. 3. "He "that ruleth over men [muſt be] juſt, ruling in the feare "of God. *Deut.* 25. 43. 46. "Thou ſhalt not rule over him "with rigour: but ſhalt fear thy God. "But over your bre-"thren the children of Iſrael, one over his brother, ye ſhall "not rule with rigour. "According to the manner of the "Ægyptians, *Exod.* 1. 13, 14. "who made the children of "Iſrael to ſerve with rigour. "And they made their lives "bitter unto them with hard bondage, &c.

CHAP.

CHAP. X.

Of cauſes criminall between our people and forreign Nations.

Sect. 1. IN caſe any of our people ſhould do wrong to men of another Nation, upon complaint made to the Governour, or ſome other of the Councell or Aſſiſtants, the fact is diligently to be inquired into; and being found to be true, full reſtitution is to be made out of the goods of the offender (as the caſe ſhall require) and the offender himſelfe to be ſeverely puniſhed, according to the quality of the crime. *Mat.* 7. 12. *Therefore all things whatſoever ye would that men ſhould doe to you, doe ye even ſo to them; for this is the law and the Prophets.*

Sect. 2. In caſe the people of another Nation have done any wrong to any of ours, right is firſt to be demanded of the Governour of that people, and juſtice upon the Malefactor, which if it be granted and performed, then no breach of peace to follow. *Deut.* 20. 10, 12. *When thou comeſt nigh unto a City, to fight againſt it; then proclaim peace unto it. And it ſhall be, if it make thee an anſwer of peace, and open unto thee: then it ſhall be that all the people that are found therein, ſhould be tributaries unto thee, and they ſhall ſerve thee.* 2 Sam. 20. 18, 19, 20, 21, 22. *Then ſhe ſpake, ſaying:* [c] *they were wont to ſpeake in olde time, ſaying, they ſhall ſurely aske counſell at Abel, and ſo they ended* [*the matter.*]

[c] *Heb.* In ſpeaking it is wont to be ſaid from the beginning, ſaying, inquiring they ſhal inquire of *Abel*, & ſo they perfectly concluded.

Sect. 3. If right of juſtice be denyed, and it will not ſtand with the honour of God, and ſafety of our Nation that the wrong be paſſed over, then warre is to be denounced and undertaken. Deut. 22. 12, 13. *But if it will make no peace with thee, but will make warre with thee: then beſiege thou it ſtraitly.*

And

And the Lord thy God will deliver it into thine hands: and thou ſhalt ſmite every male thereof with the d *edge of the ſword.*

d *Heb.* the mouth of the ſword.

Sect. 4. Some Miniſter is to be ſet forth to goe along with the Army for their inſtruction and encouragement. *Deut.* 20. 1, 2, 3, 4. *And it ſhall be, when ye are come nigh unto the battle; then the Prieſt ſhall approach and ſpeake unto the people.*

And he ſhall ſay to them, Heare O Iſrael, ye are approaching this day unto battle againſt your enemies: let not the heart of any of you be tender, feare not, nor be ſlothfull, e *neither be ye terrified* f *becauſe of them.*

e *Or* haſty.
f *Heb.* from before them.

For Jehovah your God, he goeth with you: to fight g *for you, with your enemies, to ſave you.*

g *Or* on your ſide.

Sect. 5. Men betrothed and not marryed, or newly marryed; and ſuch as have newly built or planted, and not reaped the fruit of their labours: and ſuch as are faint-hearted, are not to be preſſed or forced againſt their wills to go forth to warre. *Deut.* 20. 5, 6, 7, 8. *And the Officers ſhall ſpeake to to the people, ſaying: what man* [*is there*] *that hath built a new houſe, and* h *hath not dedicated it? let him goe, and return to his houſe; leſt he dye in the battle, and another* i *man dedicate it.*

h *Or* imitated it.
i *Or* imitate it.

And what man [*is there*] *that hath planted a vineyard, and hath not* k *eaten of it? let him goe and return to his houſe: leſt he dye in the battle, and another man* l *eate of it.*

k *Heb.* made it common.
l *Heb.* make it common.

And what man [*is there*] *that hath betrothed a wife, and hath not taken her? let him goe, and return to his houſe; leſt he dye in the battle, and another man take her.*

And the Officers m *ſhall ſpeake further to the people: and they ſhall ſay, what man* [*is there*] *that is fearefull, and* n *faint-hearted? let him goe, and return to his houſe; leſt his brethrens heart* o *faint, as well as his heart.*

m *Heb.* ſhall add to ſpeak.
n *Heb.* tender heart.
o *Heb.* melt.

Deut. 24. 5. *When a man taketh a new wife, he ſhall not goe forth with the armie, nor* p *be charged with any buſineſſe: he ſhall be* q *free at home one yeare, and ſhall cheere up his wife which he hath taken.*

p *Heb.* nor ſhal any thing paſs upon him.
q *Heb.* innocent to his houſe.

Sect.

Sect. 6. Captaines are to be chosen by the Officers. *Deut.* 20. 9. *And it shall be, when the Officers have made an end of speaking to the people: they shall make Captains of the Armies to lead the people.*

Sect. 7 All wickednesse is to be removed out of the Camp by severe discipline. *Deut.* 23 9. 12, 13, 14. *When the host goeth forth to warre against thine enemies; then keepe thy selfe, from every wicked thing.*

And there shall be a place for thee, without the Camp: and thou shalt go thither, abroad.

And thou shalt have a paddle upon thy weapon: and it shall be, when thou wilt ease thy selfe abroad, thou shalt digge therewith, and shalt turne backe, and cover that which cometh from thee.

For Jehovah thy God walketh in the midest of thy Camp, to deliver thee, and to give up thine enemies before thee, therefore shall thy Camp be holy: that he may not see in thee the nakednesse of any thing, and turn away from thee.

Sect. 8. Aide in warre from men of a corrupt and false religion is not to be accepted, much lesse sought for. 2 *Chron.* 25. 7, 8. *But there came a man of God to him, saying, O King, let not the army of Israel goe with thee: for Jehovah* [*is*] *not with Israel* [*to wit*] *all the children of Ephraim.*

But if to goe thou [*determine*]*, make thy selfe strong for the* y *battle: God will make thee fall before the enemie, for God hath power, to help and to cast downe.*

y *Or War.*

Sect. 9. Women (especially such as have not lyen by man) little children and cattle, are to be spared and reserved for spoile. *Deut.* 20. 14. *But the women and the little ones, and the cattle, and all that is in the City, all the spoile thereof thou shalt take as a prey to thy selfe: and thou shalt eate the spoile of thine enemies, which Jehovah thy God hath given thee.*

Sect. 10. Fruit-trees, that may be of use for meate to our own Souldiers, are not to be cut downe or destroyed, and consequently not corne. *Deut.* 20. 19, 20. *When thou shalt*

beſiege a City many dayes, in making warre againſt it to take it, thou ſhalt not deſtroy the [z] *trees thereof by forcing an axe againſt them, for thou mayeſt eate thereof, and thou ſhalt not cut them down: for ô man it is to be employed by thee in the ſiege.*

[z] *Heb.* wood.

But the tree which thou knoweſt, that it is not a tree for meate, that thou mayeſt deſtroy and cut downe: that thou mayeſt build a bulworke againſt the City that is making warre with thee, untill thou haſt ſubdued it.

Sect. 11. The ſpoiles gotten by warre, are to be divided into two parts, between the Souldiers and the Commonwealth that ſent them forth. *Numb.* 31. 27. *And divide the prey into two parts, between them that tooke the warre upon them, who went out to battle; and between all the congregation.*

Sect. 12. A tribute from both is to be levyed to the Lord, and given to the treaſury of the Church. A fiftieth part out of the Common-wealths part; and a five hundreth part out of the part of the Souldiers. *Numb.* 31. 28, 29, 47. *And levie a* [a] *tribute for Jehovah, of the men of warre that went out to warre, one ſoule of five hundred: both of the perſons, and of the beeves, and of the aſſes, and of the ſheep.*

[a] *Heb.* A portion.

Take yee it of their halfe; and give it unto Eleazar the Prieſt, for an heave offering of Jehovah.

Even of the children of Iſrael halfe, Moſes tooke, one portion of fifty, of the men and of the beaſts; and gave them to the Levites, that keepe the charge of the Tabernacle of Jehovah, as Jehovah commanded Moſes.

Sect. 13. If all the Souldiers returne backe againe in peace, not one lacking; It is acceptable to the Lord, if they offer, over and above their tribute, a voluntary oblation to the treaſury of the Church: For a memoriall of the redemption of their lives, by the ſpeciall providence and ſalvation of the Lord of Hoſts.

Numb. 31. 48, 49, 50. *And the Officers which were over the thouſands of the hoſt, the Captains of thouſands, and Captaines of hundreds, came neer unto Moſes.*

And

And they ſayd unto Moſes, thy ſervants have taken the [b] *ſumme of the men of warre that are* [c] *under our charge; and there* [d] *lacketh not one of us.*

Wee have therefore brought [e] *an oblation for the* LORD, *every one that hath found a veſſell of gold, a chaine and bracelet, a ring, an eare-ring or tablet: to make an attonement for our ſoules before Jehovah.*

And Moſes and Eleazar the Prieſt tooke the gold of them: every wrought veſſell.

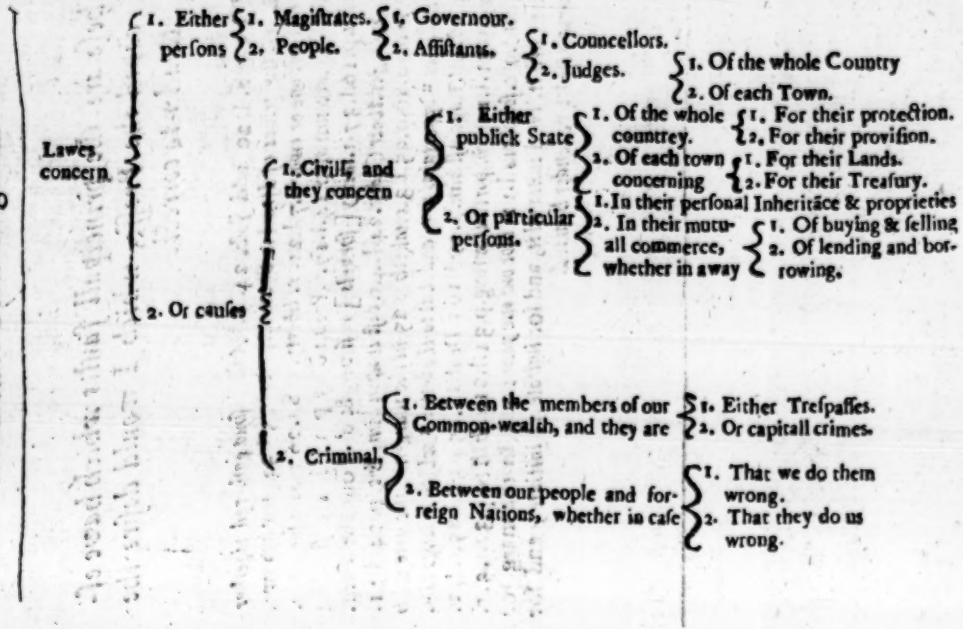
[b] *Heb* head.
[c] *Heb.* in our hand.
[d] *Heb.* There is not a man numbred from us.
[e] *Heb.* The oblation of Jehovah.]

Iſa. 33. 22.

Jehovah is our Judge, Iehovah is our Law-giver, Iehovah is our King, hee will ſave us.
Amen.

FINIS.

An Analysis of Lawes and Government accomodated to New-England.



These are the principall faults which have escaped the Presse, which I would desire the Reader to correct.

PAge 2. l. 20. add *Josh. 24. 1. And Joshua gathered together all the tribes of Israel to Shechem*, &c. p. 5. l. 34. for *any two*, read *any one or two*. p. 7. l. 21. r. *liberty*. p. 8. l. 26 r. *paid for out*. p. 10. l. 2. r. *account at*. p. 14. l. 17. r. *Prov.* 16. 11 p. 16. l. 1. r. *standing corn*. p. 16. l. 37. r. *thirty* [*shekels*] *of silver*, & blot out the marg. p. 20. l. 4. r. *their God*. p. 24. l. 4. r. *cast it upon him*, &c. p. 24. l. 11. r. *Lev.* 20. 10. p. 25. l. 3. r. *taketh*. p. 25. *in the margent, the note with the letter* u *appertains to* x, *and that to the letter* x *which belongs to* u. p. 26. l. 11. r. *against him*. p. 29. l. 16. r. *Deut.* 19. 15 p. 30. l. 25. r. *Lev.* 25. p. 31. l. 15. r. *important wrong*. p. 31. l. 21. r. *shall be*. p. 32. l. 3. r. *sent*. l. 9. r. *solicitous*. l. 11. *blot out one your*; and in the marg. for *imitated it*, read *initiated it*, and for *imitate* r. *initiate*, and for *tender heart* r. *tender hearted*.